

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Foster	Team: Team # 1	CCRB Case #: 200704758	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 06/09/2006 10:04 AM, Tuesday, 03/27/2007 , Thursday, 03/29/2007	Location of Incident: § 87(2)(b)	Precinct: 47	18 Mo. SOL 12/9/2007	EO SOL 12/9/2007	
Date/Time CV Reported Thu, 03/29/2007 11:44 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/05/2007 4:16 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			047 PCT
2. POM Michael Raso	18576	933235	047 PCT
3. POM Stephen Donohue	00331	932566	047 PCT
4. SGT Louis Deceglie	00358	920188	047 PCT
5. POM Luis Alemany	15173	900152	047 PCT
6. SGT Kevin Murray	04856	919953	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Louis Padilla	26791	919527	047 PCT
2. POM Michael Perry	08952	928959	047 PCT
3. POM Michael Dimurro	17518	906114	047 PCT
4. INS James Shea	00000	899847	047 PCT
5. SSA Michael Kenny	02984	884145	ESS 03

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: On June 9, 2006, officers entered and searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
B. Officers	Abuse: On June 9, 2006, at § 87(2)(b) in the Bronx, officers searched a car.	§ 87(2)(b)
C.SGT Louis Deceglie	Abuse: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Sergeant Louis Deceglie supervised a stop of the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)
D.POM Stephen Donohue	Discourtesy: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Stephen Donohue spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
E.POM Luis Alemany	Discourtesy: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Luis Alemany spoke obscenely and/or rudely to § 87(2)(b)	
F.POM Luis Alemany	Force: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Luis Alemany used physical force against § 87(2)(b)	
G.SGT Louis Deceglie	Abuse: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Sergeant Louis Deceglie supervised a search of the car in which § 87(2)(b) was an occupant.	
H.POM Michael Raso	Discourtesy: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Michael Raso spoke obscenely and/or rudely to an individual known as § 87(2)(b)	
I.SGT Kevin Murray	Discourtesy: On March 27, 2007, at the 47th Precinct stationhouse, Sergeant Kevin Murray spoke obscenely and/or rudely to § 87(2)(b)	
J.POM Stephen Donohue	Abuse: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Stephen Donohue seized § 87(2)(b)'s property.	
K.SGT Louis Deceglie	Abuse: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Sergeant Louis Deceglie supervised a stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
L.POM Stephen Donohue	Abuse: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Stephen Donohue drew his gun.	
M.POM Michael Raso	Discourtesy: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Michael Raso spoke obscenely and/or rudely to § 87(2)(b)	
N.SGT Louis Deceglie	Force: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Sergeant Louis Deceglie used physical force against § 87(2)(b)	
O.SGT Louis Deceglie	Abuse: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Sergeant Louis Deceglie supervised a search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
P.POM Stephen Donohue	Discourtesy: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Stephen Donohue spoke obscenely and/or rudely to § 87(2)(b)	
Q.POM Stephen Donohue	Discourtesy: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Stephen Donohue acted rudely toward § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Synopsis

On June 9, 2006, at approximately 10:04 a.m., § 87(2)(b) and his wife, § 87(2)(b) called the police to report that armed men had broken into their home, at § 87(2)(b) in the Bronx, and robbed them. § 87(2)(b) alleged that during their investigation, unidentified officers entered and searched § 87(2)(b) (**Allegation A**) as well as a vehicle that was in the driveway of the home (**Allegation B**). During their search, officers recovered over one pound of marijuana and \$50,000 in cash. Police Officer Michael Raso of the 47th Precinct arrested § 87(2)(b) for criminal possession of marijuana in the second degree.

On March 27, 2007, at approximately 11:00 a.m., § 87(2)(b) was in his vehicle with an individual known to him as § 87(2)(b) when they were stopped by four officers, identified through investigation as Sergeant Louis Deceglie and Police Officers Michael Raso, Stephen Donohue, and Luis Alemany, all of the 47th Precinct Anti-Crime Unit (**Allegation C**). § 87(2)(b) alleged that when he asked why he had been stopped, PO Donohue called him a “smartass” (**Allegation D**). He further alleged that PO Alemany told him not to “fucking move” and pushed him down onto his car (**Allegations E and F**). The officers allegedly searched § 87(2)(b)’s vehicle (**Allegation G**). When § 87(2)(b) asked whether he could leave, PO Raso allegedly told him, “Get the fuck out of here” (**Allegation H**). The officers transported § 87(2)(b) to the 47th Precinct stationhouse, where § 87(2)(b) became engaged in a verbal dispute with PO Raso in front of the desk. § 87(2)(b) asked Sgt. Kevin Murray, the desk sergeant, “Sarge, is this CPR?” Sgt. Murray allegedly responded, “What the fuck is CPR?” (**Allegation I**). PO Donohue allegedly seized a parking placard that was in § 87(2)(b)’s vehicle (**Allegation J**). § 87(2)(b) was released from the stationhouse with a summons for disorderly conduct. § 87(2)(b) later obtained medical attention for wrist and shoulder injuries sustained as a result of the incident.

On March 29, 2007, at approximately 11:30 a.m., § 87(2)(b) and § 87(2)(b) were passengers in a rental vehicle driven by a friend, § 87(2)(b). The three were stopped at Nereid Avenue between Wickham and Bruner Avenues in the Bronx by Sgt. Deceglie, PO Raso, and PO Donohue (**Allegation K**). PO Donohue allegedly approached the vehicle with his gun drawn (**Allegation L**). During the stop, PO Raso allegedly referred to § 87(2)(b) as an “asshole” (**Allegation M**). § 87(2)(b) claimed that Sgt. Deceglie kicked his feet to spread them apart, causing him to fall to the ground (**Allegation N**). PO Raso allegedly told § 87(2)(b) to “shut the fuck up” (**Allegation M, continued**). The officers searched § 87(2)(b)’s rental vehicle (**Allegation O**). § 87(2)(b) asked an officer to loosen the handcuffs and explained that he had just come from the hospital and that his wrists were still swollen. PO Donohue called § 87(2)(b) a “pussy” and a “bitch” and told him to “shut the fuck up” (**Allegation P**). § 87(2)(b) urinated on himself and the officers mocked him, calling him a “pussy” and a “bitch,” (**Allegation P, continued**). § 87(2)(b) was released with a summons for disorderly conduct. PO Donohue allegedly returned the keys to the truck by throwing them through the window of the police vehicle and into the bed of the truck (**Allegation Q**). Sgt. Deceglie, PO Raso, and PO Alemany failed to make memo book entries regarding both March, 2007, incidents, as required by Patrol Guide Procedure 212-08 (**Allegations R, S, and T**).

§ 87(2)(b), § 87(2)(g)

Because § 87(2)(b) filed his complaint nine months late, it was not possible to obtain a recording of police communications related to the June, 2006, incident, making it impossible to identify the supervisor who authorized the search of § 87(2)(b)’s house and car on that date. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

Summary of Complaint

§ 87(2)(b)

a § 87(2)(b)

s. At the time of his interview, § 87(2)(b) stated that he was a § 87(2)(b) but was not able to name his place of employment. § 87(2)(b) filed a complaint regarding three separate incidents with the Internal Affairs Bureau on March 29, 2007 (encl. 4a-b). This complaint was referred to the Civilian Complaint Review Board on April 5, 2007 (encl. 5a-c). § 87(2)(b) made statements to medical personnel on March 27, 2007 (encl. 6a). § 87(2)(b) provided the CCRB with a telephone statement on April 10, 2007 (encl. 6b-c), and a sworn statement on April 30, 2007 (encl. 6d-k).

§ 87(2)(b) s statements were generally consistent with one another. The summary below is based on § 87(2)(b) s CCRB interview, with inconsistencies between statements noted where necessary.

June 9, 2006

§ 87(2)(b) could not remember on what date the first incident occurred. § 87(2)(b) stated in his complaint report that this incident occurred on an unknown date in 2006 and then suggested that it had occurred in August, 2005, during his telephone statement. The investigation determined that the incident occurred on June 9, 2006. On the morning of the incident, § 87(2)(b) dropped his children off at school and returned to his home at § 87(2)(b) in the Bronx. § 87(2)(b) was accosted by five armed gunmen who forced their way into his apartment. The gunmen stole several items, including a computer. § 87(2)(b) managed to fight off the gunmen and chased them onto the street. When the gunmen attempted to escape by vehicle, § 87(2)(b) flagged down a passing motorist who pursued the gunmen into Mount Vernon. As they fled, the gunmen fired shots at the vehicle in which § 87(2)(b) was traveling. Ultimately, § 87(2)(b) and the unidentified motorist stopped a Mount Vernon police officer but the officer did not apprehend the gunmen. § 87(2)(b) was taken to a Mount Vernon police station for questioning and medical treatment.

Unidentified NYPD officers from the Bronx went to § 87(2)(b) s home, questioned his wife, § 87(2)(b) and transported § 87(2)(b) to Mount Vernon. While § 87(2)(b) and § 87(2)(b) were in Mount Vernon, unidentified officers searched § 87(2)(b) s home. § 87(2)(b) realized that the officers had searched his home because \$50,000 in cash was missing from a drawer when he returned. § 87(2)(b) stated that neither he nor § 87(2)(b) know who searched their home. While searching the home, officers located an unregistered minivan with missing license plates parked in the rear of the driveway. When asked to whom the minivan belonged, § 87(2)(b) refused to say, indicating only that

it did not belong to him. The officers searched the vehicle and claimed that they retrieved marijuana inside. Several NYPD officers, including an officer identified through investigation as PO Raso, questioned § 87(2)(b) in Mount Vernon. Unidentified NYPD officers drove § 87(2)(b) back to the Bronx, where he was arrested for possession of marijuana. § 87(2)(b) fought marijuana possession charges, but was ultimately convicted for that offense. § 87(2)(b) stated that \$21,000 of the \$50,000 was from an insurance settlement over a stolen vehicle. The cash was intended for use as a down payment on a house.

March 27, 2007

On March 27, 2007, at approximately 11:00 a.m., § 87(2)(b) was driving in a green Dodge Caravan registered to § 87(2)(b) was with an individual known to him only as § 87(2)(b). § 87(2)(b) explained that he had purchased a tow truck in Chicago and had paid § 87(2)(b) who worked at a tow truck company, to drive the truck from Chicago to New York City. § 87(2)(b) and § 87(2)(b) had just dropped off the tow truck and were on their way to get something to eat. Four officers in an unmarked dark blue Crown Victoria, identified through investigation as Sgt. Louis Deceglie, PO Michael Raso, PO Luis Alemany, and PO Steven Donohue, were driving southbound on East 233rd Street in the Bronx. § 87(2)(b) recognized PO Raso as one of the officers who questioned him in Mount Vernon on June 9, 2006. An officer, identified through investigation as PO Donohue (described as a tall white male with blond hair and blue eyes), was the driver of the police vehicle. § 87(2)(b) made eye contact with PO Donohue as he drove past but then stopped at a nearby restaurant.

§ 87(2)(b) had stepped out of his vehicle when the officers directed him to re-enter the car. When PO Donohue requested the keys to § 87(2)(b)'s car and his documentation, § 87(2)(b) complied. When PO Donohue questioned § 87(2)(b) as to where he was going, § 87(2)(b) replied that he did not think that he had the right to ask him this question. PO Donohue asked § 87(2)(b) "Are you a smartass?" § 87(2)(b) replied that he was not a smartass and asked whether anything was wrong with his license and registration. PO Donohue replied that there was not but then ordered § 87(2)(b) to exit his vehicle. When § 87(2)(b) complied, PO Donohue placed him against the car and told him to place his hands behind his back. § 87(2)(b) refused to do so. The four officers came behind § 87(2)(b). § 87(2)(b) twisted his arm behind his back and placed him in handcuffs. § 87(2)(b) asked the officers why they had done this and PO Donohue replied that he intended to search § 87(2)(b)'s vehicle. § 87(2)(b) responded, "Go ahead then. Alright."

Because the handcuffs were so tight, § 87(2)(b) was unable to sit down. When he stood to readjust his position, a white male officer, identified through investigation as PO Luis Alemany (described as a bald male, 5'9" in height with a muscular build), said, "Don't fucking get up." PO Alemany pushed § 87(2)(b) back down on his car and told him, "Don't fucking move." § 87(2)(b) agreed not to move. In his telephone statement, § 87(2)(b) did not allege that the officer who pushed him down used any profanities while doing so.

The officers removed § 87(2)(b) from the van and, without searching or questioning him, brought him to join § 87(2)(b) at the rear of the vehicle. Another officer, described as a white male, approximately 27 years old, searched § 87(2)(b)'s vehicle but did not find anything. § 87(2)(b) asked the officers whether he could leave and PO Raso told him, "Yeah, get the fuck out of here." § 87(2)(b) did not raise this allegation in his initial complaint report, and in his telephone statement, § 87(2)(b) alleged that this comment was directed toward him at the stationhouse, and not toward § 87(2)(b) at Baychester Avenue and East 233rd Street. § 87(2)(b) went to a shopping plaza across the street where he observed the incident. PO Donohue placed § 87(2)(b) inside of the unmarked police vehicle and told him that they were "taking him in." When § 87(2)(b) asked why he was being arrested when he had complied with their directions and was not in possession of any contraband, PO Donohue retorted, "Because you're a smartass."

PO Donohue drove § 87(2)(b) to the 47th Precinct stationhouse. Because they were so close to the stationhouse, the other officers walked. As he stood in front of the desk, PO Donohue and other officers laughed at § 87(2)(b). Also present was a desk sergeant, identified through investigation as Sgt. Kevin Murray (described as a white male with black hair in uniform). § 87(2)(b) argued with PO

Donohue in front of the desk. When § 87(2)(b) asked Sgt. Murray, “Sarge, is this C.P.R.?,” referring to the NYPD slogan “Courtesy, Professionalism and Respect,” Sgt. Murray replied, “What the fuck is C.P.R?” § 87(2)(b) did not raise this allegation in either his initial complaint report or his telephone statement. § 87(2)(b) was taken to a holding cell and the officers confiscated \$2000 from his pockets. The officers claimed that this money “smelled like weed.”

§ 87(2)(b) s vehicle was brought to the stationhouse, where it was thoroughly searched. The door covers were removed in the course of the search, which § 87(2)(b) did not witness. When PO Donohue saw that § 87(2)(b) s hand was bleeding, he told § 87(2)(b) that he was going to be released. § 87(2)(b) initially refused to leave because he wanted to go to the hospital. Nonetheless, § 87(2)(b) agreed to go when PO Donohue informed him that his money would be returned to him. § 87(2)(b) was released from the stationhouse with Summons § 87(2)(b) given his money and told to leave the stationhouse. § 87(2)(b) additionally alleged that PO Donohue seized a parking permit for bus drivers that did not belong to § 87(2)(b) but was inside his vehicle. After he was released, § 87(2)(b) went to the emergency room of § 87(2)(b) Hospital where he was diagnosed with damage to his rotator cuff and lacerations on his wrists.

March 29, 2007

In his initial complaint report, § 87(2)(b) stated only that officers stopped him and issued a summons on March 29, 2007. § 87(2)(b) provided more detailed accounts regarding this incident during his telephone statement and CCRB interview.

On March 29, 2007, at approximately 11:30 a.m., § 87(2)(b) was scheduled to return to the hospital for a follow up MRI examination and asked a friend, § 87(2)(b) to drive him because he could not drive with the pain in his arm. § 87(2)(b) and § 87(2)(b) s friend, § 87(2)(b) drove in § 87(2)(b) s rental pickup truck. The three men also planned to pick up vehicle parts in New Jersey. In his telephone statement, § 87(2)(b) did not mention the MRI examination or continuing pain to his arm.

As they drove, § 87(2)(b) stated that he observed PO Donohue, the Sgt. Deceglie, and PO Alemany officer in an unmarked vehicle parked outside of a restaurant. The officers drove after § 87(2)(b) and stopped their vehicle at Nereid Avenue between Wickham and Bruner Avenues in the Bronx.

PO Donohue requested § 87(2)(b) s license and registration, which § 87(2)(b) provided. PO Donohue looked into the rear of § 87(2)(b) s vehicle and asked, “It’s you again?” PO Donohue asked the males where they were going and § 87(2)(b) responded that it was none of the officers’ business. PO Donohue directed § 87(2)(b) to exit the vehicle. § 87(2)(b) initially stated that § 87(2)(b) exited the vehicle voluntarily but then clarified that PO Donohue pulled him from the vehicle. Another officer pulled § 87(2)(b) from the vehicle. One of the officers § 87(2)(b) was not able to specify which) asked § 87(2)(b) “Are you going to step out of the vehicle or are you gonna be a wiseass today?” PO Raso approached on foot with a bag containing food. As soon as he arrived, PO Raso said, “Oh, it’s this asshole again?” referring to § 87(2)(b) responded, “No, you’re the fucking asshole.”

§ 87(2)(b) refused to exit the vehicle, so PO Raso and Sgt. Deceglie pulled him from the vehicle. In his interview, § 87(2)(b) alleged that the officers kicked his feet to spread them apart, causing him to fall to the ground, but he did not raise this allegation in his telephone statement. The officers pulled him up and placed him in handcuffs. § 87(2)(b) stated that he argued with the officers, reminding them of what had happened on March 27, 2007. § 87(2)(b) alleged that PO Raso told him, “Remember what happened a day ago? Just shut the fuck up.” In his telephone statement, § 87(2)(b) did not allege that PO Raso told him to “shut the fuck up” at this point, instead alleging that PO Donohue told him, “Fuck it. Shut up. You gonna go right back to the fucking hospital.”

§ 87(2)(b) asked the officers—he did not specify which ones—to loosen the handcuffs because he had just come from the hospital and his wrists were still swollen. When § 87(2)(b) continued to protest, PO Donohue told him, “Shut the fuck up. You’re a pussy” and “Shut up. Don’t let me make you sit.” No one readjusted the handcuffs.

Four unidentified uniformed officers responded to the location, apparently in response to a request for assistance transmitted by the plainclothes officers. § 87(2)(b) urinated on himself and the officers mocked him. PO Donohue called § 87(2)(b) a “bitch.” All of the officers laughed at § 87(2)(b).

While § 87(2)(b) was in handcuffs, an officer removed his identification, property and money from his pockets. After a brief inspection, PO Raso took the identification to conduct warrant checks and write a summons. § 87(2)(b) was ultimately released from the handcuffs. PO Raso issued § 87(2)(b) Summons # § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b) received summonses. The officers entered their vehicle and threw the keys to the truck in the back of the truck and told § 87(2)(b) and § 87(2)(b) “Get the fuck out of here.”

Immediately afterward, § 87(2)(b) filed a complaint with the Internal Affairs Bureau and remained at the location until two investigating officers arrived. As § 87(2)(b) gave a statement to IAB, the unmarked vehicle containing the four officers that stopped him drove past. § 87(2)(b) believed that they intended to stop him again but did not when they realized who he was speaking to. Less than twenty minutes after IAB left, the officers drove past again and taunted him, saying “Pussy. Pussy.” § 87(2)(b) was not able to have the MRI examination due to the stop.

Results of Investigation: June 9, 2006

Attempts to Identify Civilian Witnesses

According to § 87(2)(b)'s statement, no members of his family were at home when unidentified officers searched his home and the unregistered minivan on June 9, 2006. § 87(2)(b) was unable to provide information regarding any civilian witnesses of this incident.

Police Officer Statements

Police Officer Louis Padilla (47th Precinct), Witness Officer

PO Padilla, a § 87(2)(b). On June 9, 2006, PO Padilla worked from 7:05 a.m. until 3:40 p.m. PO Padilla patrolled sector F with PO Michael Raso in uniform in a marked patrol car.

PO Padilla made memo book entries related to this incident (encl. 10a-c). At 10:10 a.m. on June 9, 2006, PO Padilla responded to § 87(2)(b). At 2:35 p.m., two people were arrested for criminal possession of marijuana.

On January 31, 2008, PO Padilla was interviewed at the CCRB (encl. 10d-e). At the time of the incident, PO Padilla and his partner received a report of a robbery at gunpoint at § 87(2)(b). PO Padilla and PO Raso responded. PO Padilla could not remember whether he and PO Raso were the first officers to arrive. When they arrived at § 87(2)(b), a Hispanic female, identified through investigation as § 87(2)(b), stated that unidentified individuals with guns had robbed her at her home and that her husband, § 87(2)(b), was chasing them. § 87(2)(b) ultimately chased the unidentified individuals into Mount Vernon. PO Padilla had not had any previous contact with either § 87(2)(b) or § 87(2)(b).

PO Padilla and PO Raso relayed the information provided by § 87(2)(b) over the radio. PO Padilla walked to the side of the property and, as he did so, he detected the odor of marijuana. The scent of marijuana was coming from a minivan parked in the driveway. Other officers were present and also smelled the marijuana. PO Padilla did not see any contraband in plain view. Officers searched the vehicle, which was unlocked, but PO Padilla could not remember who did this and did not participate in the search. PO Padilla could not remember if the officers discussed conducting the search with § 87(2)(b) nor could he remember if she was present at the time of the search. The officers found a large quantity of marijuana and money. PO Padilla could not remember where in the van the marijuana was found. § 87(2)(b)

§ 87(2)(b) was arrested for possession of marijuana at the 47th Precinct stationhouse. Supervisors were present, but PO Padilla could not remember which ones.

ESU was called to the location out of concern that other victims of the robbery might be inside the house. PO Padilla could not remember whether ESU officers arrived before or after the van was searched. The ESU officers searched the house to ensure that there were no “perps” inside. PO Padilla did not at any point enter the house. PO Padilla could not remember how long he was on the scene. PO Padilla stated that he is not aware of whether § 87(2)(b) was arrested.

Police Officer Michael Raso (47th Precinct), Witness Officer

PO Raso’s memo book indicates that on June 9, 2006, at 10:12 a.m., he responded to a report of a robbery in progress at § 87(2)(b) (encl. 8a-c). At 2:35 p.m., he noted that two individuals had been arrested.

Arrest Report § 87(2)(b) completed by PO Raso (encl. 8f-g), indicates that § 87(2)(b) The narrative states the following: “[Arresting officer] did recover a large bag containing more than 16 ounces of marijuana and \$17,217 from a 2002 Dodge Caravan.”

PO Raso’s interview at the CCRB did not address the June 9, 2006, incident, because the tape of his IAB interview, which was received over four months after it was initially requested, was blank and he did not wish to be interviewed without reviewing the tape. It was later deemed unnecessary to interview PO Raso about the incident because, according to § 87(2)(b) PO Raso was not actually at § 87(2)(b) at the time of the search, but rather was questioning § 87(2)(b) and § 87(2)(b) in Mount Vernon. Thus, his testimony would not affect the recommended dispositions.

Police Officer Michael Dimurro (47th Precinct), Witness Officer

PO Dimurro was assigned to patrol sectors B and E in a marked patrol car from 7:05 a.m. until 3:40 p.m. on June 9, 2006. PO Dimurro’s memo book entry indicates that he arrived as backup for other units at Carpenter Avenue and East 240th Street at 10:20 a.m. and left at 10:29 a.m. for a job along Barnes Avenue (encl. 9a-d). During a telephone conversation on February 1, 2008, PO Dimurro noted that he had been interviewed by IAB during their investigation of the stolen money allegation and stated that the money alleged by § 87(2)(b) to have been stolen was actually confiscated in Mount Vernon and held there. It was not necessary to interview PO Dimurro at the CCRB due to his apparently minor role in the incident. Given how briefly he was on the scene, his interview would not affect the recommended dispositions.

Sergeant Michael Kenny (Emergency Service Squad 3), Witness Officer

Sgt. Michael Kenny, of ESU 3 completed an ESU Truck Report regarding an entry into § 87(2)(b) (encl. 9e). Sergeant Kenny indicated that the ESU officers were looking for evidence and perpetrators. In the details section he wrote the following narrative: “Crew did forcibly open gate to upstairs to search for possible victims from a home invasion and shooting. Crew also gained entry to three vehicles for other victims and removed panel from garage door also to look in garage for victims.”

Police Officer Luis Alemany (47th Precinct), Witness Officer

PO Alemany is listed on the roll call as working from 9:30 a.m. until 6:05 p.m. on the anti-crime team, but did not recall the incident and failed to provide his memo book entry for this date after repeated attempts to obtain it by both the CCRB and the 47th Precinct ICO’s office. On November 27, 2007, PO Alemany was interviewed at the CCRB (encl. 12a-b). PO Alemany did not remember responding to an incident in which § 87(2)(b) reported a robbery at gunpoint and was then arrested for criminal possession of marijuana.

Other Officers

On June 9, 2006, PO Stephen Donohue began his tour of duty at 5:30 p.m. Thus, he was not on duty at 10:30 a.m. and did not participate in the incident that took place on this date. On June 9, 2006, Sgt. Deceglie was on vacation, as his memo book confirms.

Police Department Documents

Sprint Report

The Sprint Report indicates that on June 9, 2006, at approximately 10:04 a.m., several calls were made to 911 indicating that three males had conducted a gunpoint robbery at § 87(2)(b) (encl. 16a-h). A caller, identified via investigation as § 87(2)(b), reported that the males had stolen two laptop computers, money and car keys. She noted that her husband, identified via investigation as § 87(2)(b), was chasing the robbers. Units patrolling sectors B and E of the 47th Precinct began to arrive at the location at 10:14 a.m. No other units explicitly report arriving. At 11:50 a.m., an officer requests that ESU respond to § 87(2)(b) in order to gain entry into an apartment. ESU arrived at 11:54 a.m. At 2:35 p.m., a 47th Precinct sector vehicle indicated that two individuals had been arrested at the 47th Precinct stationhouse in regards to this incident.

Command Log

The 47th Precinct Command Log for June 9, 2006 (encl. 18a-b), indicates that § 87(2)(b) and § 87(2)(b) were arrested for criminal possession of marijuana. An entry in the log indicates that Officer Raso and a supervisor prepared property vouchers for \$21,667 in connection with § 87(2)(b)'s arrest.

Results of Investigation: March 27, 2007

Attempts to Contact Civilian Witness

§ 87(2)(b) stated that an individual named § 87(2)(b) was a passenger in his vehicle when he was stopped on March 27, 2007. § 87(2)(b) stated that he hired § 87(2)(b) to drive a vehicle he purchased from Chicago to New York but was unable to provide any contact information for § 87(2)(b) or the company § 87(2)(b) worked for. Although § 87(2)(b) indicated that he would obtain additional information for § 87(2)(b) and send it to the undersigned investigator, to date, § 87(2)(b) has not provided the investigation with this information.

Police Officer Statements

Sergeant Louis Deceglie (47th Precinct, Subject Officer)

Sgt. Deceglie, a 32-year-old white male, is 5'10" tall and weighs 200 pounds. On March 27, 2007, Sgt. Deceglie worked from 9:26 a.m. until 6:10 p.m. as the Anti-Crime Supervisor. Sgt. Deceglie's team included PO Raso, PO Donohue, and PO Alemany. Sgt. Deceglie was in plainclothes in unmarked vehicle number 369. Sgt. Deceglie did not make any memo book entries related to the March 27, 2007, incident (encl. 13b-c).

On November 30, 2007, Sgt. Deceglie was interviewed at the CCRB (encl. 13d-f). At the time of the incident, Sgt. Deceglie was traveling in the backseat of the car. Sgt. Deceglie stated that the driver is usually either PO Raso or PO Donohue, but he could not remember specifically who was driving on the day of the incident. PO Raso or PO Donohue saw the driver of a minivan, later identified as § 87(2)(b) engage in a traffic infraction. At the time of his interview, Sgt. Deceglie could not remember what the traffic infraction was.

The officers used their lights and sirens to stop § 87(2)(b). Sgt. Deceglie did not remember any difficulty in getting § 87(2)(b) to stop. Sgt. Deceglie could not remember which officers approached the driver's side of § 87(2)(b)'s vehicle, but stated that the officer who was driving would have done so. Sgt. Deceglie approached the passenger's side. Sgt. Deceglie had had no previous contact with either § 87(2)(b) or the single passenger in the minivan, identified through investigation as § 87(2)(b), but later became aware that PO Raso had previously arrested § 87(2)(b).

The officers on the driver's side asked § 87(2)(b) for his driver's license, registration, and proof of insurance. § 87(2)(b) refused to provide these documents and began cursing. Sgt. Deceglie could

not remember precisely what § 87(2)(b) said, but did remember that he used the word “fuck” more than once and said words to the effect of, “I don’t have to give you guys anything. Go fuck yourselves.” § 87(2)(b) was screaming loudly enough that “a handful” of people stopped on the sidewalk to watch what was happening. The officers informed § 87(2)(b) that he would be taken to the stationhouse if he did not provide his driver’s license, registration, and proof of insurance. § 87(2)(b) still refused to provide his information. The officers asked § 87(2)(b) to step out of the vehicle and he responded by saying, “I don’t have to do shit.” Sgt. Deceglie could not remember exactly what led up to § 87(2)(b) getting out of the vehicle, but did remember that § 87(2)(b) got out on his own. The officers did not use any physical force to remove § 87(2)(b) from the minivan.

Once outside the vehicle, § 87(2)(b) continued to scream and “use the f-word a lot.” § 87(2)(b) was also throwing his arms up in the air. Sgt. Deceglie was still on the passenger’s side at this point along with one other officer, while the two other members of the team were dealing with § 87(2)(b). The officers handcuffed § 87(2)(b) and transported him to the 47th Precinct stationhouse. Sgt. Deceglie had no role in handcuffing § 87(2)(b). After § 87(2)(b) was handcuffed, he was taken to the team’s vehicle. The officers were on the scene for “a few minutes” after § 87(2)(b) was handcuffed, but nothing of note happened during this time.

The officers informed the passenger that he was free to go, and the passenger walked away. The passenger did not wish to take the vehicle from the scene. One of the members of the team drove the minivan to the stationhouse. At the stationhouse, the officers issued § 87(2)(b) a summons for disorderly conduct. § 87(2)(b) continued to curse at the officers inside the stationhouse, and specifically yelled at PO Raso. It was at this point that PO Raso remembered that he had previously arrested § 87(2)(b) and informed the other officers of this fact.

No search of the minivan was conducted, nor did Sgt. Deceglie remember any discussion of conducting a search. No property was confiscated from the minivan. § 87(2)(b) did not complain of any injuries and Sgt. Deceglie did not see any visible injuries to § 87(2)(b). No officer referred to § 87(2)(b) as a “smartass.” No officer told the passenger, “get the fuck out of here.” Sgt. Deceglie did not hear any officer curse at § 87(2)(b). At the stationhouse, Sgt. Deceglie did not hear any conversation between § 87(2)(b) and the desk officer.

Police Officer Stephen Donohue (47th Precinct, Subject Officer)

PO Donohue, a § 87(2)(b). On March 27, 2007, PO Donohue worked from 9:30 a.m. until 6:05 p.m. PO Donohue worked in plainclothes with the Anti-Crime team, including Sgt. Deceglie, PO Alemany, and PO Raso. The team was using an unmarked blue Ford Crown Victoria.

PO Donohue did not make any memo book entries related to any of the incidents (encl. 11a-e).

On November 30, 2007, PO Donohue was interviewed at the CCRB (encl. 11g-i). At the time of the incident, PO Donohue was driving the Crown Victoria. PO Donohue could not remember who was in the front passenger’s seat. One of the officers, “probably” PO Donohue given that he was driving, observed the driver of a green minivan commit a traffic infraction. PO Donohue stated that he believes the infraction was failure to signal either a lane change or a turn. The officers used their lights and sirens to stop the minivan. PO Donohue and another officer, identified through investigation as PO Alemany, approached the driver’s side.

PO Donohue asked the driver of the vehicle, later identified as § 87(2)(b) for his driver’s license, registration, and proof of insurance. PO Donohue had had no previous contact with § 87(2)(b). There was one passenger, identified through investigation as § 87(2)(b). § 87(2)(b) asked why he was being pulled over and PO Donohue stated that he would explain this once he obtained § 87(2)(b)’s paperwork. § 87(2)(b) who was yelling, accused PO Donohue of having stopped § 87(2)(b) because of his race. PO Donohue again requested the relevant documents. After going back and forth, PO Donohue informed § 87(2)(b) that, if he refused to provide his paperwork, he would be taken to the

stationhouse and issued a summons there. § 87(2)(b) said, "Alright." PO Donohue asked § 87(2)(b) to step out of his vehicle and he did so. § 87(2)(b) remained inside the minivan.

PO Donohue walked with § 87(2)(b) toward the back of the vehicle and PO Donohue again requested § 87(2)(b)'s driver's license, registration, and proof of insurance. § 87(2)(b) screamed that the officers were "racist." § 87(2)(b) screamed toward people standing outside a bodega across the street, "Take out your cameras. Videotape this. These guys are racist." § 87(2)(b) then said to the officers, "You guys are fucking assholes. You always do this to me." PO Donohue handcuffed § 87(2)(b) and attempted to calm § 87(2)(b) down by making statements to the effect of, "It doesn't have to go this way." § 87(2)(b) did not physically resist being handcuffed.

After two to three minutes, the officers took § 87(2)(b) to the 47th Precinct stationhouse. Sgt. Deceglie and possibly PO Raso walked to the stationhouse because it was nearby. § 87(2)(b) asked § 87(2)(b) to take the minivan from the scene, but § 87(2)(b) did not wish to do so. The officers locked the van and took the keys to the stationhouse with § 87(2)(b). The van was not taken to the stationhouse. § 87(2)(b) walked away from the incident location. PO Donohue did not personally speak with § 87(2)(b) at any point during the incident.

At the 47th Precinct stationhouse, the officers issued § 87(2)(b) a summons for disorderly conduct. Directly in front of the desk sergeant, identified through investigation as Sgt. Kevin Murray, PO Donohue handed § 87(2)(b) the summons and § 87(2)(b) said to PO Raso, "Don't worry. I'll get back at you." PO Raso asked § 87(2)(b) what his name was and realized at this point that he had previously arrested § 87(2)(b). PO Donohue did not hear any conversation between § 87(2)(b) and Sgt. Murray. Specifically, PO Donohue did not hear Sgt. Murray say, "What the fuck is CPR?" PO Donohue did not hear any officer tell the passenger, "Get the fuck out of here." The officers did not at any point enter or search the minivan. There was no discussion of searching the van, and no parking placard was confiscated from the van.

No VTL summonses were issued because the officers were already issuing § 87(2)(b) a summons for disorderly conduct and have been instructed not to also issue VTL summonses in such situations.

Police Officer Michael Raso (47th Precinct, Subject Officer)

PO Raso, a 28-year-old white male, is 5'8" tall and weighs 195 pounds. PO Raso worked from 9:30 a.m. until 6:05 p.m. on March 27, 2007, in plainclothes with PO Donohue, PO Alemany, and Sgt. Deceglie as part of the anti-crime team. The officers were in an unmarked vehicle.

PO Raso did not make any memo book entries related to the March 27, 2007, incident (encl. 8d-e).

On April 16, 2008, PO Raso was interviewed at the CCRB (encl. 8j-l). PO Raso's statement was consistent with the statements of Sgt. Deceglie and PO Donohue, with exceptions noted below. PO Raso agreed with the other officers that PO Donohue initially witnessed the traffic infraction, possibly failure to signal, and "initiated" the stop. PO Raso approached the passenger's side of § 87(2)(b)'s minivan.

PO Raso agreed with Sgt. Deceglie that the van was driven to the 47th Precinct stationhouse when § 87(2)(b) refused to remove it from the scene. No search of the vehicle was conducted at the stationhouse and no property was confiscated from the vehicle. There was never a discussion of conducting a vehicle search.

Like PO Donohue, PO Raso alleged that § 87(2)(b) said to him in front of the desk, "I'm going to get even with you." Afterward, PO Raso looked through his old arrests and noted that he had arrested § 87(2)(b) on June 9, 2006. PO Raso did not realize that he had interacted with § 87(2)(b) before this point.

Police Officer Luis Alemany (47th Precinct, Subject Officer)

PO Alemany, a § 87(2)(b). PO Alemany did not bring his memo book with him to the CCRB but stated that he would send the investigator copies of his entries for

June 9, 2006, and March 27 and 29, 2007. The investigator provided PO Alemany with a self-addressed, prepaid envelope and business card following the interview. PO Alemany subsequently failed to provide his memo book after the investigator called the stationhouse to leave messages, submitted a request through IAB, and called the ICO's office on multiple occasions. PO Alemany was rescheduled for a second interview so that he could provide a copy of his memo book in person. On May 2, 2008, PO Alemany appeared without any of the relevant memo book entries. PO Alemany stated that he believes he has lost the memo book covering March, 2007, but promised to fax the June 9, 2006, entry later that day. PO Alemany stated that he has not filed a UF61 related to the lost entries. As of the date on which this report was written, PO Alemany had not provided a copy of the relevant entries.

On November 27, 2007, PO Alemany was interviewed at the CCRB (encl. 12a-b). PO Alemany did not remember the March 27, 2007, incident involving § 87(2)(b). PO Alemany recognized a photograph of § 87(2)(b) and stated that he is a drug dealer known to the 47th Precinct Anti-Crime and SNEU teams. PO Alemany has not personally arrested § 87(2)(b) but has been present on more than one occasion for arrests of § 87(2)(b). None of these arrests stands out in PO Alemany's mind. Specifically, PO Alemany did not remember responding to an incident in which § 87(2)(b) reported a robbery at gunpoint and was then arrested for criminal possession of marijuana. PO Alemany did not remember any arrest of § 87(2)(b) involving a vehicle stop.

Sergeant Kevin Murray (47th Precinct, Subject Officer)

Sgt. Murray, a § 87(2)(b). On March 27, 2007, Sgt. Murray was the CPU Supervisor for the 47th Precinct. Sgt. Murray worked in uniform at the stationhouse.

Sgt. Murray made an entry in the command log related to this incident (encl. 21a-b). At 12:00 p.m. on March 27, 2007, § 87(2)(b) was brought to the stationhouse. § 87(2)(b) was released at 12:15 p.m. with a summons for disorderly conduct issued by PO Donohue. The infraction occurred at Baychester Avenue and East 233rd Street in the Bronx.

On January 16, 2008, Sgt. Murray was interviewed at the CCRB (encl. 14c-d). At the time of the incident, the anti-crime team brought an individual, identified through investigation as § 87(2)(b) to the stationhouse and released him with a summons for disorderly conduct. Sgt. Murray had not previously interacted with § 87(2)(b) and was not aware of whether members of the anti-crime team had previously interacted with him. Sgt. Murray remembered nothing out of the ordinary about § 87(2)(b)'s time in the stationhouse and did not remember witnessing a dispute between § 87(2)(b) and officers. Sgt. Murray did not remember an argument during which § 87(2)(b) asked him, "Sarge, is this CPR?" Sgt. Murray did not say and did not hear another officer say, "What the fuck is CPR." Sgt. Murray did not recognize a photograph of § 87(2)(b).

Medical Records

On § 87(2)(b) at 1:54: p.m., § 87(2)(b) was seen in the emergency department of § 87(2)(b) Medical Center (encl. 15a-d). § 87(2)(b) complained of shoulder and wrist pain, and wrist abrasions, assessing the pain as ten on a scale of ten. An examination determined that § 87(2)(b) had sustained a superficial abrasion on his left wrist and soft tissue tenderness on his anterior and lateral left shoulder with painful range of motion. § 87(2)(b) was directed to have a follow-up examination at the orthopedic clinic.

Police Department Documents

Command Log

The 47th Precinct Command Log for March 27, 2007 (encl. 21a-b), indicates that § 87(2)(b) was arrested by Officer Stephen Donohue for disorderly conduct. The log indicates that § 87(2)(b) was brought into the stationhouse at 12:00 p.m. and released at 12:15 p.m. with Summons 4§ 87(2)(b). The log also notes that over \$150, which was initially vouchered when he was brought into the stationhouse, was returned to § 87(2)(b).

Warrant Checks

Police documentation indicates that on March 27, 2007, Officer Raso conducted multiple checks of a vehicle bearing license plate number § 87(2)(b) the vehicle driven by § 87(2)(b) (encl. 20a-c).

Roll Call

The 47th Precinct Roll Call for March 27, 2007 (encl. 22a-c), indicates that the following officers were assigned to Anti-Crime: Sergeant Louis Deceglie, Officer Luis Alemany, Officer Michael Raso and Officer Stephen Donohue.

Stop and Frisk Log

The 47th Precinct Stop and Frisk Log for March 27, 2007, has no entries related to this incident (encl. 19).

Results of Investigation: March 29, 2007

Civilian Statements

§ 87(2)(b) Victim

§ 87(2)(b) a § 87(2)(b) . At the time of his CCRB interview, § 87(2)(b) was § 87(2)(b) § 87(2)(b) provided a telephone statement on April 12, 2007 (encl. 7a-b), and a sworn statement on April 30, 2007 (encl. 7c-h).

On March 29, 2007, at approximately 10:00 a.m., § 87(2)(b) rented a red pickup truck bearing New Jersey license plates from an Enterprise car rental store located on Bronx Boulevard. § 87(2)(b) was the driver of the vehicle, a friend named § 87(2)(b) was seated in the front passenger's seat and § 87(2)(b) was seated in the rear passenger's seat. § 87(2)(b) denied that he had bought or sold drugs during the time between renting the vehicle and being stopped by the police. Approximately ten minutes later, they were driving on Nereid Avenue at White Plains Road when § 87(2)(b) observed a blue Chevrolet Caprice parked at a taxi stand with three plainclothes officers inside. § 87(2)(b) passed the vehicle but could see through his rear view mirror that the blue Chevrolet was following behind him. The unmarked police vehicle then directed § 87(2)(b) to stop and so § 87(2)(b) pulled over on Nereid Avenue between Wickham Avenue and Brunner Avenue. Three officers dressed in plainclothes approached the vehicle.

The driver of the police vehicle, identified through investigation as PO Donohue (described as a Hispanic male, approximately 6'2" tall, slim build, dark curly hair), approached the front driver's side with his gun drawn. The second officer, identified through investigation as Sgt. Deceglie (described as a stout Hispanic male, 5'10" in height), approached the front passenger's side and the third officer, identified through investigation as PO Raso (described as a Hispanic male, 5'10" in height with a medium and muscular build), approached the rear passenger's side of the rental vehicle. PO Donohue requested § 87(2)(b)'s license and registration, but when § 87(2)(b) asked why he was being stopped, PO Donohue told him, "Shut the fuck up." PO Donohue briefly scanned the documentation § 87(2)(b) gave him and then placed it in his pocket.

PO Donohue opened § 87(2)(b)'s door, grabbed § 87(2)(b)'s hand and dragged him from the rental vehicle. When § 87(2)(b) protested this treatment and requested PO Donohue's shield number, the officer said, "Don't ask for nothing."

PO Donohue asked § 87(2)(b) if he could search the rental vehicle and § 87(2)(b) consented, saying, "I don't have a problem with that." PO Donohue searched the rental vehicle. A marked police SUV responded to the location and two unidentified uniformed officers exited. § 87(2)(b) alleged that the two responding officers, described as a Hispanic male 5'0" in height and a black female, 5'2" in height, looked inside of the vehicle and then began to talk amongst themselves.

PO Donohue handcuffed § 87(2)(b). When § 87(2)(b) asked PO Donohue whether he was going to do the same thing he had done a few days earlier, the officer directed § 87(2)(b) to "shut the fuck up and sit down." PO Donohue asked § 87(2)(b) for his identification. When § 87(2)(b)

indicated that it was in his back pocket, PO Donohue told § 87(2)(b) to turn around and removed the identification. After obtaining the documentation, PO Donohue spun § 87(2)(b) around and pushed him to sit on the bumper of the rental vehicle. § 87(2)(b) told PO Donohue that the handcuffs were too tight and so the officer approached § 87(2)(b) squeezed the handcuffs and directed § 87(2)(b) to sit. § 87(2)(b) urinated on himself. § 87(2)(b) stated that all of the officers laughed at § 87(2)(b). PO Donohue informed § 87(2)(b) that he would be issued a summons for disorderly conduct.

PO Donohue directed § 87(2)(b) to re-enter the rental vehicle, which he did. PO Donohue removed the keys from the truck. While § 87(2)(b) was seated in the rental truck, he could hear that § 87(2)(b) and the officers were engaged in a “big conflict,” though he did not specify what was said or done. When § 87(2)(b) returned to the rental vehicle, he showed § 87(2)(b) that he had received a summons for disorderly conduct. § 87(2)(b) asked PO Donohue for the keys but the first officer told him not to ask any questions. PO Donohue returned to the unmarked police vehicle and began to drive away. PO Donohue then threw the keys into the back of the truck.

Attempts to Contact Additional Civilian Witness

§ 87(2)(b) indicated that there was a third person in the vehicle when he and § 87(2)(b) were stopped on March 29, 2007 and identified this third victim as his friend, § 87(2)(b) stated that he did not have any contact information for § 87(2)(b) although he did believe that § 87(2)(b) lived on Bronx Hill Avenue. § 87(2)(b) who did not know § 87(2)(b)'s surname, indicated that he did not have any contact information for § 87(2)(b). Searches of ZabaSearch.com and the Department of Motor Vehicles database found multiple results for the name § 87(2)(b) none of them with an address on Bronx Hill Avenue.

Police Officer Statements

Sergeant Louis Deceglie (47th Precinct, Subject Officer)

On March 29, 2007, Sgt. Deceglie worked from 9:26 a.m. until 6:10 p.m. as the Anti-Crime Supervisor. Sgt. Deceglie's team included PO Raso and PO Donohue. Sgt. Deceglie was in plainclothes in unmarked vehicle number 369. Sgt. Deceglie did not make any memo book entries related to the March 29, 2007, incident (encl. 13b-c).

On November 30, 2007, Sgt. Deceglie was interviewed at the CCRB (encl. 13d-f). At the time of the incident, Sgt. Deceglie was traveling in the backseat of the car. At the time of the third incident, the team stopped a pickup truck with three occupants along Nereid Avenue in the Bronx for a traffic infraction. Again, Sgt. Deceglie could not remember what infraction was committed. Again, Sgt. Deceglie approached the passenger's side. PO Raso and PO Donohue approached the driver's side. The officers on the driver's side asked the driver, identified through investigation as § 87(2)(b) for his driver's license. At this time, the officers heard a voice from the backseat of the truck, which had tinted windows that prevented the officers from seeing the person to whom the voice belonged. The voice said, “Fuck these guys. I know these fucking guys. Don't give them shit.” § 87(2)(b) turned around to tell the backseat passenger to “shut up.”

The person in the backseat, later revealed to be § 87(2)(b) continued to scream profanities, so the officers asked the driver to step out of the vehicle. § 87(2)(b) was screaming so much that the officers could not have even a basic conversation with § 87(2)(b). § 87(2)(b) stepped out of the vehicle and spoke with the officers. At this time, § 87(2)(b) continued to “scream like a lunatic.” § 87(2)(b) told § 87(2)(b) to “shut the fuck up.” All of a sudden, § 87(2)(b) jumped out of the backseat such that the door bumped Sgt. Deceglie, who was standing by himself. Sgt. Deceglie instructed § 87(2)(b) to get back into the truck, but § 87(2)(b) responded only by saying, “Fuck you, douche bag.” Sgt. Deceglie turned § 87(2)(b) around and instructed him to place his hands on the truck. § 87(2)(b) did not comply, so Sgt. Deceglie placed § 87(2)(b)'s hands on the vehicle. § 87(2)(b) then began “nudging [Sgt. Deceglie] with his behind” to push the officer out of the way. Sgt. Deceglie grabbed § 87(2)(b)'s hands to handcuff him. Sgt. Deceglie then took § 87(2)(b) to

the back of the truck. While Sgt. Deceglie was attempting to handcuff § 87(2)(b) other officers may have approached, but they had no physical role in the handcuffing process.

While he was at the back of the truck in handcuffs, § 87(2)(b) urinated on himself and “laughed like a maniac,” apparently about having urinated on himself. § 87(2)(b) did not seem to be intoxicated, and Sgt. Deceglie explained § 87(2)(b)'s behavior by speculating that he is “just a nasty person.” No summonses were issued for the violation of the Vehicle and Traffic Law. The officers did, however, issue § 87(2)(b) a verbal warning. Sgt. Deceglie did not have his gun drawn as he approached the vehicle. § 87(2)(b) did not fall to the ground at any point during the incident. Specifically, no officer kicked § 87(2)(b)'s legs apart and caused him to fall to the ground. Sgt. Deceglie did not remember hearing § 87(2)(b) complain about the handcuffs. No officer called § 87(2)(b) an “asshole,” “pussy,” or “bitch.” The officers did not alert passersby to the fact that § 87(2)(b) had urinated on himself. Sgt. Deceglie could not remember if any officers confiscated the keys of the vehicle. Sgt. Deceglie did not see any officer throw the keys into the bed of the truck. Sgt. Deceglie did not remember any of the civilians asking for the officers' names or shield numbers. None of the officers entered the vehicle in any way or conducted any kind of search of the vehicle. Sgt. Deceglie could not remember if the truck belonged to any of its occupants.

Police Officer Michael Raso (47th Precinct, Subject Officer)

PO Raso worked from 9:30 a.m. until 6:05 p.m. on March 29, 2007, in plainclothes with PO Donohue and Sgt. Deceglie as part of the anti-crime team. The officers were in an unmarked vehicle. PO Donohue drove the vehicle.

PO Raso did not make any memo book entries related to the March 29, 2007, incident (encl. 8d-e). PO Raso did, however, prepare a Stop and Frisk Report related to the incident (encl. 8h-i). On March 29, 2007, Officer Raso completed a UF 250 regarding the stop of § 87(2)(b). Officer Raso indicated that § 87(2)(b) was stopped for suspected possession of a weapon at 11:00 a.m. after one minute of observation. Officer Raso listed the following circumstances leading to the stop: actions indicative of engaging in a drug transaction, furtive movements and a suspicious bulge. He also noted that there were additional factors such as evasive, false or inconsistent responses to questions, changing direction at the sight of the officer, associating with persons known for their criminal activity and high incidence of the reported offense. Officer Raso indicated § 87(2)(b) was frisked because he made verbal threats, engaged in furtive movements, refused to comply with the officers' directions and had a suspicious bulge. Officer Raso further noted that § 87(2)(b) was searched because he was in possession of a hard object.

On April 16, 2008, PO Raso was interviewed at the CCRB (encl. 8j-l). At the time of the incident, in the vicinity of Nereid Avenue and Barnes Avenue, the officers observed that the driver of a red pickup truck, identified through investigation as § 87(2)(b) was not wearing his seatbelt. The officers stopped the truck. PO Raso volunteered that, while the Stop and Frisk Report indicates that one of the reasons for approaching § 87(2)(b) was an apparent drug transaction, he checked this box on the report only because of his June 9, 2006, drug-related arrest of § 87(2)(b). PO Raso approached the passenger's side with Sgt. Deceglie, while PO Donohue was alone on the driver's side.

PO Raso's description of the remainder of the incident was consistent with the statement of Sgt. Deceglie. After Sgt. Deceglie had handcuffed § 87(2)(b) PO Raso frisked § 87(2)(b) by patting around the outer layer of his clothing. PO Raso searched § 87(2)(b) because he felt a bulge which turned out to be a cell phone. PO Raso could not remember where the cell phone was.

Police Officer Stephen Donohue (47th Precinct, Subject Officer)

On March 29, 2007, PO Donohue worked from 9:30 a.m. until 6:05 p.m. PO Donohue worked in plainclothes with the Anti-Crime team, including Sgt. Deceglie and PO Raso. The team was using an unmarked blue Ford Crown Victoria. PO Donohue drove the Crown Victoria.

PO Donohue did not make any memo book entries related to this incident (encl. 11c-e). Summons § 87(2)(b) was issued to § 87(2)(b) on March 29, 2007, for disorderly conduct (encl. 11f). PO

Donohue noted that § 87(2)(b) had violated subsection one of the disorderly conduct statute, indicating that he had engaged in fighting, or in violent, tumultuous or threatening behavior.

On November 30, 2007, PO Donohue was interviewed at the CCRB (encl. 11g-i). PO Donohue's statement was consistent with the statements of PO Raso and Sgt. Deceglie. PO Donohue could not remember what traffic infraction was committed. PO Donohue added that the officers confirmed that § 87(2)(b) was the authorized user of the rental truck before releasing him. PO Donohue did not have possession of the keys of the truck at any point and did not throw the truck's keys into the bed of the truck. PO Donohue did not draw his gun and did not see any of the other officers do so. PO Donohue did not remember there being any suspicion that § 87(2)(b) was engaging in a drug transaction at the time of the incident. The officers decided not to issue the driver a summons for the VTL infraction because his paperwork was in order and he was compliant.

Police Officer Luis Alemany (47th Precinct, Witness Officer)

As noted above, PO Alemany lost his memo book covering March, 2007, but did not file a UF61 related to this loss. PO Alemany consulted the roll call to confirm that, on March 29, 2007, he was at Bronx Criminal Court during his tour and thus could not have participated in a stop of § 87(2)(b) on that day.

Other Officers

Although § 87(2)(b) and § 87(2)(b) alleged that other officers responded to a request for assistance made by members of the anti-crime team, PO Raso, PO Donohue, and Sgt. Deceglie made no mention of other officers responding and the Sprint Report indicates that not only did no other officers respond, but the anti-crime officers did not request assistance. Because their testimony would not affect the recommended dispositions and they were not present for the majority of the FADO allegations, no further attempts were made to identify these witness officers.

Police Department Documents

Sprint Report

On March 29, 2007, at 10:51 a.m., a 47th Precinct Anti-Crime vehicle reported that there was a suspicious vehicle bearing license plate number CSD2352 at Nereid Avenue and Bruner Avenue. At 11:10 a.m., the officers issued the driver a summons. No other officers reported responding.

Warrant Check

On March 29, 2007, at 11:04 a.m., Officer Raso conducted a check to determine whether there were any open warrants for the arrest of § 87(2)(b).

Roll Call

The 47th Precinct Roll Call for March 29, 2007 indicates that the following officers were assigned to Anti-Crime: Sergeant Deceglie, Officer Raso and Officer Donohue. Officer Alemany, who was initially assigned to Anti-Crime, was re-assigned to Bronx Criminal Court from 8:00 a.m. to 4:35 p.m.

§ 87(2)(b)

§ 87(2)(b)

Civilian CCRB and Criminal Conviction History

Neither § 87(2)(b) nor § 87(2)(b) has filed any previous complaints with the agency.

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

CCRB Histories

Sergeant Deceglie has had no substantiated allegations in his four-year tenure with the New York City Police Department. Neither PO Raso nor PO Donohue has had any substantiated CCRB allegations during his four year tenure. PO Alemany, a member of the NYPD for fifteen years, has had one substantiated CCRB allegation. PO Alemany was substantiated for an allegation of threat of force in connection with CCRB case number 9602394 and received command discipline A.

Conclusions and Recommendations: June 9, 2006

Officer Identification

Because of the nature of the 911 call made by § 87(2)(b) numerous officers responded to § 87(2)(b) and most of them are not identified in the Sprint Report. Because § 87(2)(b) filed the complaint regarding this incident nine months late, it was not possible to obtain a recording of the related communications, which might have made it possible to identify the supervisor responsible for the searches. Given that § 87(2)(b) and their children were not at home when the searches were conducted, it was not possible to identify the officer who authorized ESU's entry into and search of § 87(2)(b)'s home, nor was it possible to identify the officers who searched the vehicle in the driveway.

§ 87(2)(b), § 87(2)(g)

Recommended Dispositions

Allegation A: On June 9, 2006, officers entered and searched § 87(2)(b) in the Bronx.

Allegation B: On June 9, 2006, at § 87(2)(b) in the Bronx, officers searched a car.

In this case, officers responded to § 87(2)(b) following reports that § 87(2)(b) and § 87(2)(b) the residents of § 87(2)(b) had been robbed at gunpoint and that § 87(2)(b) subsequently chased the attackers into Mount Vernon. § 87(2)(b) noted that shots were fired at him as he chased the gunmen into Mount Vernon. As noted on the Sprint Report, § 87(2)(b) refused to open the door for the officers, at which point they forcibly entered to ensure the safety of the residents and

search for possible victims and perpetrators. In the course of this search, the officers recovered \$50,000 in cash. While on the property, the officers detected the odor of marijuana emanating from one of the vehicles in the driveway. They searched the vehicle and found over one pound of marijuana. § 87(2)(b) and § 87(2)(b) were arrested for criminal possession of marijuana in the second degree.

In *New York Search and Seizure*, Barry Kamins notes that, under the “emergency doctrine,” police officers may enter a premises without a warrant “to investigate suspicious signs of impending danger” (encl. 1a). Specifically, New York courts have approved warrantless searches in cases in which “police have entered premises to locate or aid the victims or possible victims of a reported crime” (encl. 1c). Officers have all the more reason to suspect that a person may be in harm’s way when they are denied entry (encl. 1e). Kamins further notes that the doctrine “has even been applied to permit the warrantless search of the trunk of a vehicle” (encl. 1d). With respect to the second reason for the officers’ search of the vehicle, the New York Supreme Court found in *PSNY v. Chestnut* that officers who smell marijuana emanating from a vehicle they have stopped have probable cause to search the vehicle and any occupants (encl. 1f and 1h-i).

§ 87(2)(g)

Conclusions and Recommendations: March 27, 2007

Officer Identification

Sgt. Deceglie, PO Raso, and PO Donohue acknowledged participating in the stop of § 87(2)(b) on this date, and PO Alemany was identified by the officers and the roll call as being the fourth member of the team. PO Donohue was identified as the officer who allegedly called § 87(2)(b) a “smartass” and seized the parking placard based on his position in the police vehicle (he was the driver) and his role during the stop (he was the first officer to approach the driver’s side of the minivan). PO Alemany was identified as the officer who allegedly told § 87(2)(b) not to “fucking move” and pushed him based on his role during the stop (he was the second officer to approach the driver’s side). PO Raso was identified as the officer who allegedly cursed at § 87(2)(b) based on § 87(2)(b)’s statement that this officer had questioned him in Mount Vernon on June 9, 2006, which PO Raso acknowledged having done. Sgt. Murray acknowledged that he was the desk sergeant, confirmed that he completed § 87(2)(b)’s arrest stamp, and remembered being present when § 87(2)(b) was brought to the stationhouse.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Recommended Dispositions

Allegation C: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Sergeant Louis Deceglie supervised a stop of the car in which § 87(2)(b) was an occupant.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation D: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Stephen Donohue spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation E: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Luis Alemany spoke obscenely and/or rudely to § 87(2)(b)

Allegation F: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Luis Alemany used physical force against § 87(2)(b)

Allegation G: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Sergeant Louis Deceglie supervised a search of the car in which § 87(2)(b) was an occupant.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation H: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Michael Raso spoke obscenely and/or rudely to an individual known as § 87(2)(b)

Allegation I: On March 27, 2007, at the 47th Precinct stationhouse, Sergeant Kevin Murray spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation J: On March 27, 2007, at Baychester Avenue and East 233rd Street in the Bronx, Police Officer Stephen Donohue seized § 87(2)(b)'s property.

§ 87(2)(g)

Conclusions and Recommendations: March 29, 2007

Officer Identification

Once again, PO Donohue was identified based on his position in the police vehicle and his role in the stop, while PO Raso was identified as the officer who participated in the June 9, 2006, incident. Sgt. Deceglie identified himself as the officer who physically restrained and handcuffed § 87(2)(b) so the physical force allegation is being pled against him.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Recommended Dispositions

Allegation K: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Sergeant Louis Deceglie supervised a stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation L: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Stephen Donohue drew his gun.

§ 87(2)(g)
[REDACTED]

Allegation M: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Michael Raso spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation N: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Sergeant Louis Deceglie used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation O: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Sergeant Louis Deceglie supervised a search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation P: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Stephen Donohue spoke obscenely and/or rudely to § 87(2)(b)

Allegation Q: On March 29, 2007, at Nereid Avenue and Wickham Avenue in the Bronx, Police Officer Stephen Donohue acted rudely toward § 87(2)(b)

§ 87(2)(g)
[REDACTED]

§ 87(2)(g), § 87(4-b)
[REDACTED]

§ 87(2)(g), § 87(4-b)

[REDACTED]

[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: